

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 07-02-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the therapeutic exercises and hot/cold pack from 7/8/03 through 7/16/03 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On August 5, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

**CPT code 97545 & 97546 WC**--in accordance with Rule 134.600 (h) (4), the requestor provided a copy of the preauthorization letter dated 10/17/03 for two weeks (or 10 visits) work conditioning. These services were rendered from 10/20/03 through 10/24/03. The carrier denied these sessions for N-not appropriately documented (initial documentation did not include time in or out nor progress towards program goals specific to patient's job demands). Review of the documentation submitted by the requestor notes that the injured employee was a paramedic with the San Antonio Fire Department. The requestor also submitted documentation with the in and out times of the work conditioning program for the above dates of service, as well as clinic notes that report strengthening exercises as well as job specific activities (i.e. CPR simulation, push/pull weighted wheelchair, push/pull stretcher simulation, and carry weighted cases). Therefore, **reimbursement is recommended** in the amount of \$729 in accordance with Rule 134.202 (e)(5)(B).

**CPT code 99090** for date of service 11/14/03 was denied by the carrier for N-not appropriately documented. Review of the documentation submitted by the requestor does not indicate that there was an analysis of information data stored in computers. Therefore, **reimbursement is not recommended**.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees

in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 10/20/03 through 10/24/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 5<sup>th</sup> day of October 2004.

Regina L. Cleave  
Medical Dispute Resolution Officer  
Medical Review Division

RLC/rlc  
Enclosure: IRO Decision

**MEDICAL REVIEW OF TEXAS**  
[IRO #5259]  
**3402 Vanshire Drive                      Austin, Texas 78738**  
**Phone: 512-402-1400                      FAX: 512-402-1012**

## NOTICE OF INDEPENDENT REVIEW DETERMINATION

**REVISED 10/1/04**

TWCC Case Number:	
MDR Tracking Number:	M5-04-3784-01
Name of Patient:	
Name of URA/Payer:	Neuromuscular Institute of Texas
Name of Provider: (ER, Hospital, or Other Facility)	Neuromuscular Institute of Texas
Name of Physician: (Treating or Requesting)	Daniel Brad Burdin, DC

August 2, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All

available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD  
Medical Director

cc: Rosalinda Lopez, Texas Workers Compensation Commission

CLINICAL HISTORY

Patient underwent extensive physical medicine treatments after injuring his lumbar spine while lifting a stretcher at work on \_\_\_\_.

REQUESTED SERVICE(S)

Therapeutic Exercises and hot/cold pack from 07/08/03 through 07/16/03.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

Physical medicine is an accepted part of a rehabilitation program following an injury. However, for medical necessity to be established, there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the

health care community. General expectations include: (A) Home care programs should be initiated near the beginning of care, include ongoing assessments of compliance and result in fading treatment frequency. (B) Patients should be formally assessed and re-assessed periodically to see if the patient is moving in a positive direction in order for the treatment to continue. (C) Supporting documentation for additional treatment must be furnished when exceptional factors or extenuating circumstances are present. (D) Evidence of objective functional improvement is essential to establish reasonableness and medical necessity of treatment.

Expectation of improvement in a patient's condition should be established based on success of treatment. Continued treatment is expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment. In this case, there is no documentation of objective or functional improvement in this patient's condition and no evidence of a change of treatment plan to justify additional treatment in the absence of positive response to prior treatment. In fact, there was not even any significant subjective improvement since the patient's pain rating was 4-5 on 12/23/02 at the initiation of care and 4 on 07/18/03.

Therapeutic exercises may be performed in a clinic one-on-one, in a clinic in a group, at a gym or at home with the least costly of these options being a home program. A home exercise program is also preferable because the patient can perform them on a daily basis. On the most basic level, the provider has failed to establish why the services were required to be performed one-on-one. Furthermore, even if the extensive one-on-one therapy had been medically necessary, it would not have been needed for the duration of time in this case and certainly not past the first 24 visits of active care that ended on 05/19/03. It is also highly likely that the very slight gain in lumbar flexion obtained between 05/21/03 and 07/18/03 would have also been achieved through performance of a home program.